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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-third session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

HUMAN RIGHTS AND THE ENVIRONMENT

A written statement submitted by the International Commission of Jurists, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[23 August 1991]

1. The International Commission of Jurists (ICJ) welcomes Mrs. Ksentini's preliminary report on human rights and the environment (E/CN.4/Sub.2/1991/8). We believe that the report will serve as a useful basis for discussion in the Sub-Commission, in the wider community, as well as in the preparatory process of the United Nations Conference on Environment and Development.

2. We recognize the critical nature of the global ecological crisis and believe that the human rights dimension offers a significant contribution to endeavours to solve it.

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3. We therefore welcome Mrs. Ksentini's practical, action-oriented approach. As we suggested last year, the study should be practical and not become immersed in a theoretical or juridical discussion.

4. The report touches on the role of the bodies responsible for monitoring States' compliance with two of the human rights treaties. We hope that the Special Rapporteur's next report will contain a thorough examination not only of the two bodies mentioned by her, i.e. the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, but also of the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women.

5. The ICJ believes, for instance, that the denial of women's rights often lies at the heart of environmental and development issues. In many societies the systematic devaluing of women marginalizes a significant proportion of the population. In many instances, the concerns of women are more sensitively attuned to environmentally sound and sustainable development models. When they are systematically discriminated against, their accumulated knowledge and values lose their legitimacy, and the consequential lack of balance may create inappropriate development decisions and policies which result in environmental degradation.

6. The ICJ, like the Special Rapporteur, recognizes the fundamental importance of the right to education, information and participation in decision-making in the environmental field. Again, we look forward to the Special Rapporteur's expanded analysis and conclusions in relation to these topics. In this respect, we suggest that when the Special Rapporteur is reconsidering her preliminary conclusion contained in paragraph 103, which relates to new dimensions of a series of recognized rights (i.e. the right to information, participation, association, etc.), she include education as well. We believe that education at all levels can play a key role in preventing and solving environmental problems. When the citizenry is more informed about the consequences of environmentally damaging activities, when they are more aware of the avenues available to combat such damage, they are in a much better position to make an effective contribution towards ensuring environmentally sustainable decision-making.

7. We especially appreciate the recognition by Mrs. Ksentini of the indissoluble links between environmental degradation and human rights violations contained in section II.C entitled "Assaults of the environment and human rights" on the one hand and "violations of human rights and assaults on the environment" on the other hand. We look forward to the Special Rapporteur's expanded in-depth analysis of the precise relationship between specific human rights violations and environmental degradation, especially in the context of emerging notions of ecologically sustainable development.

8. We agree with the Special Rapporteur's conclusion that the right to environment cannot be reduced to the right of individuals to claim an environment of quality, nor can it be separated from the problem of development and hence from the right of individuals and peoples to sustainable development. This collective aspect to the right to environment is

paramount. This is not to deny, however, the importance of ensuring that implementation mechanisms are open to individuals and NGOs to enforce their respctive rights.

9. As Mrs. Ksentini has recognized, effective participation, or participatory democracy, is a critical issue in the context of effective environmental decision-making.

10. In section III.C of the report, the Special Rapporteur deals with permissible limits on particular rights, acknowledging that such an endeavour is always a risky undertaking because if such limits are misapplied they can take all substance out of the right. Hence, we suggest that Mrs. Ksentini adopt a modified approach. Instead of typifying the relationship between different rights as limiting each right, the Special Rapporteur should approach each right on the basis of its interdependence with other rights. In both ecological and economic terms, notions of interdependence and interconnectedness are recognized as having paramount importance.

11. The Special Rapporteur has, as requested by so many experts and NGOs, including the ICJ, dealt extensively with the question of indigenous peoples. The ICJ would support the closer examination of the question of the relationship between environmental degradation and the denial of indigenous peoples' right to self determination. We note that environmental and human rights issues are both present in many situations that have resulted in major conflicts.

12. Finally, we agree that the right to development is a primary issue in the context of environmental protection.

13. ICJ will furnish a more complete written analysis of the report to the Special Rapporteur and the other Sub-Commission members when it has had more time to examine it; it will also supply a copy of the report of the Conference on Human Rights and Environment to be hosted by the Australian Section of the ICJ and the Asia Pacific Centre for International Environmental Law in Sydney, Australia, in October this year.